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FELDESMAN
TUCKER
LEIFER
FIDELL LLP

ROBERT A. GRAHAM
rgraham@feldesmantucker.com

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Federal Communications Commission
Office of the Secretary

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April 17, 2008

Office of Commissioner Kevin Martin
Federal Communications Commission
445 12th Street SW
Washington, DC 20554
Attn: Dan Gonzalez

ORIGINAL

Re: *In the Matter of SAMHSA Petition for Permanent Reassignment of Three Toll Free
Suicide Prevention Hotline Numbers, CC Docket No. 07-271.*

To Whom It May Concern:

I am writing to you at the request of my client, Kristin Brooks Hope Center ("KBHC"); in connection with the application of the U.S. Substance Abuse and Mental Health Services Administration ("SAMHSA") permanently to reassign all rights and control over the 1-800-SUICIDE hotline from KBHC to SAMHSA. My office has represented KBHC in its dispute with SAMHSA over reimbursement for services provided and costs incurred by KBHC under a SAMHSA grant to support suicide crisis center hotline services and certification. KBHC has asked that I provide for your consideration an account of certain actions taken by SAMHSA in response to KBHC's efforts to resolve that dispute.

By way of brief background, KBHC was a subgrantee to the American Association of Suicidology ("AAS") under SAMHSA award no. SM54127 from 2001 through 2004. KBHC's responsibility under that grant consisted, among other things, of management and operation of the nation-wide 1-800-SUICIDE hotline, outreach to crisis centers to enhance participation in the nation-wide network, developing technology-based approaches to suicide prevention services, assisting crisis centers in accessing such technologies, and educating the suicide prevention community on matters relating to maintaining and publicizing suicide hotlines. KBHC's dispute with SAMHSA revolves around the latter's refusal to compensate KBHC for over \$300,000 in expenses incurred in carrying out activities relating to the SAMHSA grant.

From April 2004 forward, KBHC made numerous attempts to communicate with SAMHSA regarding these unpaid claims. For much of that time, SAMHSA would not discuss the matter with KBHC, asserting that SAMHSA had no contractual relationship with KBHC and directing KBHC to address any complaints to AAS as the responsible entity. AAS, however, disclaimed any payment responsibility. KBHC therefore filed suit against AAS to recover its

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CC Docket No. 07-271

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Page 2 of 2

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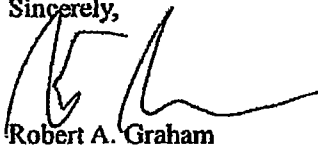
grant-related costs. KBHC and AAS settled that litigation through an agreement whereby AAS authorized KBHC to pursue its claims in AAS's name directly against SAMHSA. When notified of this arrangement, SAMHSA still refused to deal with KBHC on the ground that the agreement allegedly was not binding on SAMHSA. It was only after Senator Ted Kennedy's office intervened on KBHC's behalf that SAMHSA indicated a willingness to consider KBHC's claims.

SAMHSA's conduct in the ensuing negotiations belied any sincere intention of resolving the dispute on a consensual basis. Most significantly, on August 25, 2006 -- the same day that representatives of both SAMHSA and KBHC held a telephone conference (at SAMHSA's request) to discuss a SAMHSA settlement proposal which included a transfer of KBHC's rights in 1-800-SUICIDE to SAMHSA -- SAMHSA filed its application with the FCC to waive its regulations and to direct the assignment of 1-800-SUICIDE to SAMHSA. SAMHSA gave KBHC no advance notice of its petition, instead leaving KBHC to rely on SAMHSA's assurances that it would give KBHC's claims fair and reasonable consideration. Indeed, it was not until December 14, 2006 that KBHC independently became aware of SAMHSA's *sub rosa* actions, by which time KBHC had already agreed to permit SAMHSA to assume temporary control over (but not ownership of) 1-800-SUICIDE. Shortly thereafter, KBHC received SAMHSA's final decision on KBHC's reimbursement request. That decision indicated that SAMHSA would pay only \$10,000 of the total costs claimed. KBHC has yet to receive any such payment.

I bring the foregoing to your attention in order that you might have a more complete understanding of the events surrounding SAMHSA's efforts to divest KBHC of its ownership of its hotlines. At a minimum, it reveals the role SAMHSA has played in bringing about the financial circumstances it now asserts as a basis for its petition to the FCC. If principles of equity have any bearing on KBHC's entitlement to relief under its "Application for Review," then it is more than fair to say that the doctrine of "unclean hands" would preclude SAMHSA from availing itself of the fruits of its own misfeasance toward KBHC to deprive KBHC of its interest in its hotlines.

If you have any questions or require any further information, please do not hesitate to contact me at (202) 466-8960 or via electronic mail at rgraham@feldesmantucker.com. Thank you for your attention in this matter.

Sincerely,



Robert A. Graham

cc: U.S. Senator Tom Coburn
Sec'y Michael Leavitt, U.S. Dep't of Health and Human Servs.